

House Committee on Natural Resources
Subcommittee on Water, Oceans and Wildlife

Testimony of Norm Johnson

June 26, 2019

Good afternoon, Chairman Grijalva and Chairman Huffman, and Ranking member Bishop and Ranking member McClintock, and members of the Subcommittee. I am Norm Johnson, Natural Resources Division Chief for the Utah Attorney General's office. I am here at the request of Utah Governor Gary Herbert, who sends his regrets that he was unable to attend. I have worked for the past decade with my counterparts in the Navajo Nation to develop the settlement that would be codified by H.R. 644, the Navajo Utah Water Rights Settlement Act. I'm pleased to be here and to testify in support of an outstanding bill that represents many years of good faith work by the State of Utah and the Navajo Nation.

I am especially grateful to Representative Bishop for sponsoring the bill, both in the 115th session and again this year. I'm also grateful for Chairman Grijalva's support. And of course it's an honor to testify with President Nez. I suppose it's rare to have the witnesses from both the minority and majority testify in favor of a bill, but I'm happy we can demonstrate the exception to the rule.

Representatives of the State of Utah and the Navajo Nation have collaborated for 15 years to reach a consensus on a proposed settlement to quantify the water right claims for the area of the Nation located within Utah. We prefer to *negotiate* a solution to federal reserved water rights claims and have worked tirelessly to settle these claims without having to file costly and unpredictable lawsuits against each other.

The Utah-Navajo agreement contains a just, equitable, and reasonable resolution to the Nation's water claims in Utah. This is particularly important to Utah because the water to resolve the claims must come from Utah's precious Colorado River allocation. Utah believes the amount of water H.R. 644 includes, 81,500 acre-feet of depletion annually, fits within its allocation, thus helping to protect other water rights on the River that have later priority dates than those of the Nation. The settlement also contains subordination language to facilitate the coexistence of local non-Indian water rights in certain shared sources.

In 2015 the Utah Legislature passed a resolution declaring support for the negotiated settlement of federal reserved water rights generally and particularly for the proposed Utah/Navajo settlement now embodied in H.R. 644. Governor Herbert signed this resolution, and the legislature subsequently set aside a down payment of \$2M towards the State's financial contribution to the settlement. These efforts demonstrate Utah's continuing support for the settlement.

H.R. 644 is important to all Colorado River Basin states because the Navajo Nation's water claims in the Basin are large and not fully quantified. All basin states benefit from having the Nation's claims quantified within the allocation of the state where portions of the Nation are located. New Mexico has achieved this type of quantification in the past and Utah will do so with passage of this legislation.

It's important that we enact this legislation as soon as possible. While the State of Utah takes no position on the other settlements being discussed today, we have worked hard to comply with the criteria that Rep. Bishop wisely developed to ensure that settlements are a net

benefit to the U.S. taxpayer and have the support of the Administration. As the committee considers the next steps forward, I ask that you not delay or imperil the progress of the Utah/Navajo settlement by tying it to other proposed settlements that have not been through the same rigorous vetting and gained the support of the Administration.

I'll note that the money provided under the settlement will be used to fund drinking water projects on the Nation, which will improve living conditions for Utah citizens who are also citizens of the Nation. At the present time, many Utah Navajos lack the basic necessity of safe, clean drinking water. This bill will help construct the infrastructure needed to improve their living conditions.

Further, the settlement provides, in exchange for the water and funding it recognizes, waiver of all of the Nation's water-related legal claims against the United States, thus justifying the expenditure of federal funds.

In short, this legislation represents an excellent example of what can happen when sovereign governments work together in good faith to find a solution that will benefit everyone.

Thank you for your time and attention today. I'm happy to answer questions.